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counsel, to employ other brokers, to watch the market to determine whether it was advisable to purchase on a particular day or when the stock reached a particular quotation, and to raise funds if he decided to repurchase; and hence the court properly held that plaintiff was entitled to the time intervening between the time of the sale and August 16th following for that purpose, and was entitled to recover the difference between the price for which the stock sold and the highest price of the stock in the market between the date of the sale and the date fixed.

[Ed. Note.—For other cases, see *Brokers*, Cent. Dig. §§ 31-36; Dec. Dig. § 38.*]

Error to Circuit Court of City of Richmond.

Action by John H. Lyons against Miller & Co. Judgment for plaintiff, and defendant brings error. Affirmed.

REAL ESTATE TRUST & INS. CO., Inc., et al. *v.* GWYN.

March 14, 1912.

[74 S. E. 208.]

1. Carriers (§ 340*)—Elevators—Negligence—Last Clear Chance.—Where one attempting to leave a descending elevator which failed to stop was struck on the head by the top of the car and almost instantly thereafter caught between it and the floor sill and killed, the doctrine of the last clear chance had no application.

[Ed. Note.—For other cases, see *Carriers*, Cent. Dig. § 1354; Dec. Dig. § 340.* 10 Va.-W. Va. Enc. Dig. 380, 389.]

2. Carriers (§ 321*)—Elevators—Action for Causing Death—Instruction—Words and Phrases—“Error in Extremis.”—In an action to recover for the death of one killed by being caught between the top of a descending elevator and a floor sill, where there was evidence that the decedent put one foot through the partly opened elevator door and upon the floor sill without the elevator being stopped, there was no warrant for an instruction upon the doctrine of “error in extremis” which presupposes that the party who invokes it is himself free from fault in creating the emergency.

[Ed. Note.—For other cases, see *Carriers*, Cent. Dig. §§ 1247, 1326-1337, 1343; Dec. Dig. § 321.* 10 Va.-W. Va. Enc. Dig. 413.]

Error to Law and Chancery Court of City of Norfolk.

Action by Helen C. Gwyn, administratrix, against the Real Estate Trust & Insurance Company, Incorporated, and others. From a judgment for plaintiff, defendants bring error. Reversed and remanded for new trial.

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.